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DEPARTMENT OF COMMERCE

International Trade Administration

A-489-813

Notice of Request for Information and Extension of Time for Initiation: Antidumping Duty Petition on Certain Processed Hazelnuts from Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Michael Ferrier at (202) 482-1394 or Ann Barnett-Dahl at (202) 482-3833, Fax: (202) 482-0613, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. In addition, inquiries regarding any information on this notice may be sent via email to the following address: Michael_Ferrier@ita.doc.gov or Ann_Barnett-Dahl@ita.doc.gov

The Petition

On October 21, 2003, the Department of Commerce (“Department”) received an antidumping duty petition (“Petition”) filed in proper form by Westnut LLC, Northwest Hazelnut Company, Hazelnut Growers of Oregon, Williamette Filbert Growers, Evergreen Orchards, and

Evonuk Orchards (collectively, “Petitioners”). The Petitioners are domestic producers of processed hazelnuts.

Scope of the Petition

The scope of this Petition covers certain processed hazelnuts, including kernels, and kernels that have been roasted, blanched, sliced, diced, chopped, or in the following other forms: paste, meal, flour, croquant, and butter. Harmonized Tariff Schedule of the United States (“HTS”) categories 0802.22 and 2008.19.20 should cover these imports. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive. In-shell hazelnuts are excluded from this scope.

Domestic Like Product

The Petitioners maintain that, pursuant to Section 771(10) of the Tariff Act of 1930, as amended (“the Act”), the product that is, “like, or in the absence of like, most similar in characteristics and uses” with the article subject to the Petition for an antidumping duty investigation is processed hazelnuts.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least

25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Request for Information

Because the Department has been unable to locate a reliable source of information upon which to rely for purposes of determining industry support, we are now requesting additional information.

In accordance with section 732(c)(4)(D) of the Act and in order to determine whether the petition establishes support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, we are hereby requesting that all domestic producers/manufacturers of processed hazelnuts submit responses to the Department on company letterhead. These questions are attached as an Appendix to this notice. The questions attached to this notice are also on file in B-099 of the Commerce Department's building at 14th St. and Constitution Ave., N.W., Washington D.C. In addition, a complete version of the questions and this notice can be accessed directly on the World Wide Web at <http://www.ia.ita.doc.gov>.

Filing Requirements

Given the very short period in which we must determine industry support, the number of potential responses, and the fact that industry support may not be re-examined after initiation, we are waiving the filing requirements set forth in 19 C.F.R § 351.303 for certain parties submitting information on industry support. This waiver of the filing requirements will not apply to: 1) the submission of documents that are not in response to the information requested in this notice or 2) parties that are familiar with the conduct of antidumping and countervailing proceedings through prior involvement in such proceedings (e.g., parties represented by law firms that are involved in other AD/CVD cases).

This limited waiver is applicable only until November 20, 2003, the deadline for submitting the information requested in this notice. This waiver is intended to expedite the receipt of information that is essential to our analysis of industry support by providing information on the production of the domestic like product by petitioning and non-petitioning companies. By avoiding delays in the receipt of such information, we will have more time to analyze whether the statutory requirements concerning industry support for the above-referenced petitions have been met.

All parties submitting any information must include the following statement in their response: "I, (name and title), currently employed by (person), certify that (1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact." In addition, note that all proprietary documents received by the Department in response to this notice will be served to those individuals with access to business proprietary information under the Administrative Protective Order ("APO"). All company names will be treated as public information. All public documents may be made available to those parties on the public service

list. The APO service lists and the public service lists are available on Import Administration's website: <http://www.ia.ita.doc.gov>.

Therefore, information submitted to the Department in response to this notice should be faxed to the following number: 202-482-0613. All information received by the Department will be treated as proprietary information as outlined under our regulations (19 C.F.R. §351.304-306), unless otherwise noted in the response. Furthermore, all such information will be placed on the official record of the proceeding. Responses to this notice are due no later than November 20, 2003. Responses after this date may not be reviewed by the Department and therefore, not included in the analysis.

Extension of Time

Section 732(c)(1)(A)(ii) of the Act provides that within 20 days of the filing of an antidumping duty petition, the Department will determine, *inter alia*, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Section 732(c)(1)(B) provides that the deadline for the initiation determination can be extended by 20 days in any case in which the Department must "poll or otherwise determine support for the petition by the industry"

We will require additional information from the Petitioners and the domestic producers of processed hazelnuts in order to make our determination regarding industry support and/or time to analyze the Petitioners' responses to our requests for information. See Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III from Richard O. Weible, Office Director, Group III, Office 8 regarding Antidumping Duty Petition on Certain Processed Hazelnuts from Turkey: Extension of Deadline for Determining Industry Support,

dated November 10, 2003. Therefore, it is necessary to extend the deadline for decision on initiation for a period not to exceed 40 days from the filing of the petition. As a result, the initiation determination is now due no later than December 1, 2003.

International Trade Commission Notification

Because the Department has extended the deadline for the initiation determination, the Department will contact the Commission and will make this extension notice available to the Commission.

Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration, Group III

Date